
**COMMISSION MEETING
THURSDAY, FEBRUARY 8, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 1:30 p.m., at the West Coast Hotel in Olympia. She introduced the following attendees:

MEMBERS PRESENT:

COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER GEORGE ORR;
COMMISSIONER CURTIS LUDWIG; (arrived at 1:55 p.m.)
COMMISSIONER MARSHALL FORREST;
COMMISSIONER ALAN PARKER

OTHERS PRESENT:

BEN BISHOP, Director;
ROBERT BERG, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant

Chair McLaughlin introduced and welcomed staff members Darleen McColley and Kim Nary from the agency's Licensing Division. She pointed out these staff members were in attendance as a part of the agency's Partnerships Program, in which they are learning about the agency's various divisions and functions.

Chair McLaughlin noted the agenda would be revised; the Legislative Update would be presented immediately following the Quinault Indian Nation Phase II Review rather than on Friday as scheduled.

1. REVIEW OF AGENDA:

Amy Patjens, Manager, Communications & Legal Department, reported the agenda would stand as read with the exception of the legislative update. On Friday, several rules are up for discussion and final action: the Bingo Net Return Task Force (adjusted positive cash flow) Rules; rules relating to new pull-tab games and a strip pull-tab series game. Staff will be asking that the commissioners either not vote on the strip pull-tab series game or vote against it. The organizations originally sponsoring these games found they will probably be cost prohibitive and that the games would probably not help them. We will also be discussing the license fee rule, which reinstates the fees that became effective in December of 1999. There are two rules up for final action dealing with tracking of card room employees. Lastly, there is one rule up for discussion, which is the rule dealing with gambling equipment used in promotional contests of chance.

2. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:

Commissioner Orr made a motion seconded by **Commissioner Forrest** to approve the new licenses, changes and tribal certifications listed on pages 1 through 17 of the agenda packet under License Approvals. *Vote taken; the motion carried with four aye votes.*

3. WASHINGTON STATE COUNCIL ON PROBLEM GAMBLING PRESENTATION/REPORT:

Cindy Reed, Communications Coordinator, reported that among other duties, she manages the contract for the Washington State Council on Problem Gambling. The present biannual contract is scheduled to expire on June 30, 2001. Since the contract must also be approved through the Office of Financial Management, the process of writing the new contract has already begun and should be completed by the end of this month. Staff anticipates renewing the contract for \$150,000 per year, which is the same amount as the last biennium. Ms. Reed advised she is appearing today to hear the Commissioner's concerns and comments prior to the renewal of the proposed contract.

She noted the Policy Statement has been updated for this biennium, and if approved, she would request their signatures for the new contract. The Council's performance objectives for the course of their last contract were included in the agenda packet to provide an idea of what was expected and how the Council performed relating to the specific performance objectives.

Ms. Reed explained that in 1990, the commissioners requested that staff conduct a research project to explore the area of compulsive gambling and addictive behavioral disorder. Staff concluded from its research that the problem exists in Washington State and the Commission adopted a formal policy to address problem gambling issues. The State Lottery has now funded a total of three gambling addiction surveys, which were conducted in 1992, 1993, and 1999, by a nationally recognized expert. All three surveys reinforced the initial finding that there are citizens in Washington State, including juveniles, who are problem or pathological gamblers. The effects of this disorder burden the criminal justice system, employers, and promote dysfunctional family environments. As a consequence of the staff report and the formal policy, the Gambling Commission staff became involved with the development of the Washington State Council on Problem Gambling. This private, nonprofit organization is devoted to providing public and industry education on the topic of compulsive gambling, training professionals to treat the disorder, and providing the staffing and funding for a toll free hotline.

Since 1990, the Gambling Commission has entered into biennium contracts with the Council to provide financial assistance in performing the functions of the Council as described. The amount of the contract was raised in the 1999-2001 contract to \$300,000, which represents \$150,000 per year. Ms. Reed was assigned to monitor the terms of the contract which is renewable every biennium, and she acts as a government liaison for matters of mutual concern. In 1999, Ms. Reed attended meetings of an industry task force group chaired by the executive director of the Council, Gary Hanson. A result of the collaboration between the regulatory agencies, including the Gambling Commission, Lottery Commission, Horse Racing Commission, industry representatives, and the Council, was the creation of a problem gambling awareness video targeted to employees working within the gambling industry. Because of its neutral stance on gambling, the Council has been able to work cooperatively with the industry to provide important training regarding customers and/or employees who may display problem gambling tendencies, and to explore options to lessen the negative effects of the social activity.

Ms. Reed reported that the Commission has been committed to providing resources to educate Washington citizens and youth as well as those in the gambling industry about the compulsive problem gambling disorder. It is hoped that with this information, they will be able to seek the help and direction needed to recover from this illness and to support a friend, employee, or family member. This policy is consistent with the legislative declaration of RCW 9.46.010 which states, in part, that it is the policy of the legislature to safeguard the public against the evils induced by common gamblers and common gambling houses engaged in professional gambling, and to avoid restricting participation by individuals in activities which are more for amusement and do not maliciously affect the public.

There are five issues set forth in the statement. The primary one involves the fact that the Commission will continue to offer a contract on a biennial basis for financial assistance to an appropriate nonprofit organization offering services designated to educate and train on issues of problem gambling and/or staffing of the statewide hotline. At least one Commission staff member will be appointed as liaison to the organization to monitor the terms of the contract and to collect and disburse relevant information on the topic to the Commission and staff. This is commensurate with what has been done for the past ten years. **Ms. Reed** noted that it has always been clear with the Council that this money does not go toward treatment. Part of the process of contracting with a nonprofit organization, requires that the Gambling Commission post for a five-day period in a newspaper, the fact that we are awarding this contract. If anyone else feels they can perform the same services presently obtained through the Council on Problem Gambling, they may come forward. **Ms. Reed** reported that posting has been done, and the timeframe has passed with no response. Ms. Reed introduced Gary Hanson, Executive Director for the Council on Problem Gambling. **Commissioner Forrest** expressed a concern that enormous resources are expended in all kinds of programs and treatment, but there is very inadequate evidence as to how successful they are. He asked if there was anything that could be added to the contract indicating the Council should direct more attention to the results, which would give the Commission some confidence about what the chances are of doing something useful for the patients. **Ms. Reed** indicated that right now, there aren't any reliable statistics for the state of Washington, and it would involve coordination with the treatment providers to report on the percentage of cure rates.

Gary Hanson, Executive Director, reminded the Commissioners that the Council does not provide treatment, cases are referred to treatment providers. He noted there hasn't been any research on outcome studies for treatment in Washington. There are now two intensive outpatient treatment facilities in the state, one at Valley Medical Hospital in Renton and one at Deaconess Hospital in Spokane. Mr. Hanson reported the Council would like to have a small amount of money requiring outcome studies over a two-year period. Nationally, the program is believed to be about fifty percent effective -- there is a very high relapse rate. Mr. Hanson affirmed the actual work of the Council is to refer people, have the help line, raise awareness, and train treatment providers. Mr. Hanson emphasized that in spite of all the legalized expansion of gambling during 1993-1999, the Council's research revealed a stable rate of problem gambling. (Commissioner Ludwig arrived at 1:55 p.m.)

Mr. Hanson thanked the Commission for their continued support since 1993, and noted the contract represents more than 50 percent of their budget. He expressed appreciation for Ms. Reed's involvement in overseeing the contract, her work with the industry work group and many other activities with the National Council on Problem Gambling. Mr. Hanson explained that "problem gambling" represents any pattern of gambling behavior that compromises, disrupts or damages family, personal, or vocational pursuits. Pathological gambling is characterized by a continuous or periodic loss of control over gambling, a progression in gambling frequency and amounts wagered, a preoccupation with gambling to obtain monies with which to gamble, and a continuation of gambling involvement despite adverse consequences. According to a 1999 Prevalence Survey conducted in Washington, between 144,000-270,000 people scored as having a gambling problem in their lifetime. Between 53,000 and 130,000 residents of the state scored as current problem or pathological gamblers. Washington is one of the few states that conducted a second survey on adolescent problem gambling, and it was found that between 25,000 and 44,000 adolescents (those under 18) scored as being either problem gamblers or at risk for problem gambling. A new prevalence survey was conducted by Harvard in 1997 and found that approximately 7.5 million adults are problem pathological gamblers, and of those, 5.3 million would fit the term as problem gamblers and about 2.2 million fit the term for pathological gamblers.

Mr. Hanson provided an overview of the Council's mission and major actions. In addition to increasing public awareness of problem and pathological gambling and increasing the availability of treatment services, the Council has been able to work with the gambling industry, the treatment community and the recovering community. The Council operates a statewide help line. By regulation, this help line must be posted at every regulated gaming establishment. Callers can receive information packets for no charge and they also receive contact numbers of Gamblers Anonymous locations in their area. They can be referred to four free treatment providers in the state. Last year the Council had a total of 3,599 calls and 2,216 were information referral calls either from problem gamblers or their families. There were also over 9,000 hits on the Web page.

Mr. Hanson addressed efforts accomplished through the industry work group. They established policies; they were the genesis for creating a video, public awareness presentations were conducted, they operated the Web page, they do training with the Gambling Commission, they conduct youth awareness training, and give talks at schools. An annual youth conference geared toward people working with at-risk youth is also conducted. Mr. Hanson reported that Dr. Charles Maurer, the former and founding president of the Washington State Council, is now president of the National Council on Problem Gambling. Dr. Maurer is very interested in moving forward with research on the issue of problem gambling. Mr. Hanson anticipated that it would be a couple of years before data would be available, but efforts are underway to get funding.

Mr. Hanson noted the agenda packets contained the Council's major accomplishments in 1999-2000, and a list of contributors. Almost all the contributions come from the gambling industry. Mr. Hanson affirmed the Muckleshoot Indian Tribe contributed \$20,000 in 1999 and many other groups joined that effort, which funded the video. This year, the Muckleshoot Tribe contributed in excess of \$20,000, the Tulalip Casino contributed \$10,000 and the Recreational Gaming Association was right behind them. **Mr. Hanson** introduced Cameron Morehouse, Council Board Member, who has been with the Council almost since its founding. **Cameron Morehouse** advised that he is a recovering gambler. He affirmed his involvement with the Council since its inception and he thanked the Commissioners for their support and funding.

4. **QUALIFICATION IV REVIEWS:**
Boys and Girls Clubs of Pierce County:

Monty Harmon, Program Manager, reported this organization was formed in 1940. Their purpose is to inspire and enable young people, especially those from disadvantaged circumstances, to realize their full potential as productive, responsible, caring citizens. There are 55 members, including four officers on the board. They conducted one general meeting and 12 board meetings. They have a full-time president and CEO, 35 employees, and 860 volunteers who donated 51,000 hours in program services. The organization provides programs and services in the following five core areas: education and career development, health and life skills, character development and leadership, the arts, and sports fitness and recreation. These programs and services are provided through six clubs, five of which are in the city of Tacoma and one in the city of Lakewood. For the year ending December 31, 1999, the clubs provided services to 6,800 children. This organization met its required combined net income percentage of 12 percent for a Class J Bingo license by achieving 16.6 percent net return. They did not have excessive reserves and as of January 30, 2001, there were no pending administrative charges. Based on the review, staff recommends the Boys and Girls Clubs of Pierce County be approved as a charitable organization and be authorized to conduct gambling activities in the state of Washington. Erin Eastman was expected to be present, but was not able to attend the meeting.

Chair McLaughlin said they did well and wondered what attributed to their success. **Director Bishop** responded that it took good management and good luck. **Mr. Harmon** added that the market has impacted some of these halls, and noted this report is for the year 1999. Mr. Harmon advised that there is a slight reduction in their year 2000 other gambling net income, however, their non gambling revenues increased substantially.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to approve the Boys and Girls Clubs of Pierce County as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with five aye votes.*

Seattle Jaycees:

Monty Harmon, Program Manager, reported this organization was formed in 1931. Their purpose is to provide members with leadership development and opportunities in management training through networking and community involvement. The organization has been licensed since 1975. They have 88 active members and 11 board members who conducted 24 meetings. They have a volunteer president who oversees the organization and two employees that provide the program services. Services are provided to members, ages 21 to 39, they receive leadership and management training while they provide community services. The Seattle Jaycees conducted over 120 projects that benefited approximately 10,000 individuals in the community during 1999. Some of the projects included public safety, personal growth, community fund raising and community involvement. They participated in the Adopt A Family Project by adopting 13 large families and delivering food, clothing, gifts and decorations over the holidays. They also awarded college scholarships to students attending Washington colleges and universities. The compliance analysis revealed that the Seattle Jaycees met the reduced net return percentage of five percent required for a Class I Bingo under the net return moratorium. The organization did not have excessive reserves as of January 30, 2001, and there were no pending administrative actions. Based on the review, staff recommends that the Seattle Jaycees be approved as a charitable organization and be authorized to conduct gambling activities in the state of Washington. He introduced Mr. Ernestine Farness, the Bingo manager.

Ernestine Farness, Primary Manager for Seattle Jaycees, introduced the new president, Ms. Anne Marie Grainger.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to approve the Seattle Jaycees as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with five aye votes.*

5. QUALIFICATION V REVIEW:

Northwest Amateur Hockey Association:

Monty Harmon, Program Manager, reported this organization was formed in 1978. Their purpose is to encourage and promote the growth of amateur hockey, teach physical skills, play fair, disciplined respect for authority and competitiveness. They were licensed in 1979 and have 73 active members with nine board members who conducted four meetings. They have a full-time president and a full-time vice president, four part-time employees and 12 volunteers who donated 1300 hours during the year. Services provided included managing and coaching staff of the Northwest Amateur Hockey Association to coordinate the program activities for 550 participants. These programs

include Triple A Midget Team, Triple A Senior Men's Team and a Senior League for men. The organization's hockey programs are primarily directed toward the youth. Two players earned hockey college scholarships and two others moved up to Junior B Teams in Canada. Northwest Amateur Hockey Association did not meet its required combined net return percentage of 14 percent for its Class K Bingo license. Their actual percentage was 5.6 and the organization's year-to-date net return as of September 30, 2000 was four percent. They have applied and been accepted to participate in the current net return moratorium. There were no excessive reserves at the end of the year and as of January 3, 2001, there were no pending charges. Based on the review, staff recommends Northwest Amateur Hockey Association be approved as an athletic organization and be authorized to conduct gambling activities in the state of Washington.

Chair McLaughlin asked what would happen to this organization if the new rules were in place. **Mr. Harmon** anticipated that with the four to five percent being applied under the new progressive steps, they would be in compliance or close to it. Chair McLaughlin thought that if they were in a deficiency over expenses of \$63,000, that would not reflect a positive cash flow. **Director Bishop** said it was his understanding that this was one of the organizations that would not be in compliance with the new standards. That, however, is not to say that they might not be able to get a variance for their lease or something else. **Commissioner Forrest** addressed the \$213,000 in "Other Expenses" which he believed were expenses like wages, building rental, and equipment rental. He asked if staff made any inquiries or if there were any expense guidelines. Commissioner Forrest thought that "Other Expenses" was open-ended, which concerned him, particularly in an organization that is not meeting the requirements from the past and apparently not meeting the future requirements. Mr. Harmon affirmed that staff reviews the financial statements. **Director Bishop** explained the form is limited in space and that we often get income statements with 20 or 30 expense lines. They identify and list the standard expenses and then all the others tend to get lumped. Director Bishop agreed the figure was very high. Mr. Harmon said he would gather more information.

Chair McLaughlin called for public input. **Buck Dentinger**, President of Northwest Hockey, addressed the expense issue. He explained their organization no longer has a full-time vice president and they don't have any part-time employees on the payroll. From a hockey standpoint, he reported they have tried to cut back all expenses possible in order to meet their monthly bills. Chair McLaughlin asked how they were doing now as far as positive cash flow. **Rick Beadle**, Primary, Gambling Manager, reported that right now, they are doing okay. He said it's been tough. Last year the bottom fell out in the second half of the year due to the implementation of mini casinos. Regarding the "Other Expense" question, he believed this number is a lump sum of all the other expenses they incurred. **Commissioner Ludwig** noted they must have something in the form of gambling other than Bingo, Pull-tabs and Punch Boards. **Mr. Beadle** affirmed they have amusement devices.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to approve the Northwest Amateur Hockey Association as an athletic organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with five aye votes.*

Seattle Junior Hockey Association:

Pat Griffie, Special Agent, Financial Investigations Unit, reported the organization was formed in 1974. The purpose of the Association is to encourage and promote the growth of amateur hockey and other youth-related activities in accordance with accepted youth movement objectives. The Association has been licensed since 1976 and has 37 active members, and a board of nine members who conducted four meetings during the last fiscal year. They have a full-time executive director and eight employees who provide program services. During the past year, over 240 volunteers donated approximately 24,000 hours providing hockey services to 1,108 participants. The Association coordinates and maintains five major youth athletic clubs for participants ages 5 to 19. They jointly own a state-of-the-art skating facility with Seattle Skating Club, Inc. The facility, Olympic View Ice Arena, operates under the corporate name of Washington Ice Skating Association. Mr. Griffie reported that for the fiscal year ended June 30, 2000, Seattle Junior Hockey Association met its required combined net return percentage of 16 percent for its Class M Bingo license by achieving a 16.96 percent return. More than 60 percent of the organization's gambling proceeds were spent toward providing program services and supporting services. Supporting services expenses were less than 35 percent of functional expenses. The organization did not have excessive reserves. As of January 9, 2001, there were no pending administrative charges against the organization. Based on the review, staff recommends the Seattle Junior Hockey Association be approved as an athletic

organization and be authorized to conduct gambling activities in the state of Washington.

John Beadle, Executive Director/Secretary-Treasurer introduced himself and **Richard Newgard**, Primary Gambling Manager. Mr. Beadle responded to the issue regarding the lumping of "Other Expenses" and acknowledged that about 15 line items were added for different expenses and supplies. Historically, most, if not all of the nonprofits have reduced their expenses, but it doesn't show up because they are all listed in one figure.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to approve the Seattle Junior Hockey Association as an athletic organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with five aye votes.*

Seattle Skating Club, Inc.

Silvia Reyes, Special Agent, Financial Investigations Unit, reported that her report covers the year ending June 30, 2000. The organization was formed in 1937 and has been licensed since 1974. The purpose of the skating club is to provide facilities and programs to support the local skating community and to promote the sport of figure skating. Currently, the organization has a board of 10 members. They have four officers and conducted 11 meetings during the last fiscal year. They have 100 volunteers, two full-time employees, three part-time employees and 540 skating members. They provide 45 hours a week of ice time to their members, they conducted a summer skating school, figure skating seminars, training camps, and they do an annual ice review. For the fiscal year 2000, they had a combined net return percentage of 11.9 percent. They met the reduced net return percentage of 11 percent for Class M. The organization used 60 percent of their gambling proceeds to provide program services and support services. They spent less than 35 percent of their functional expenses and the organization did not have any excessive reserves. As of January 30, 2001 there were no pending administrative charges against the organization. Based on the review, staff recommends the Seattle Skating Club, Inc., be approved as an athletic organization and be authorized to conduct gambling activities in the state of Washington.

Chair McLaughlin asked where they hold their Bingo games. **Charlene Ann Tagas**, Executive Director, said they share the skating facility with Seattle Junior Hockey and their Bingo hall is on Highway 99 just up from Seattle Junior Hockey. Chair McLaughlin asked where the Northwest Amateur Hockey Association skates. She was informed that it was at Snow King. Ms. Tagas said they own the Olympic View Arena in partnership with Seattle Junior Hockey.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to approve the Seattle Skating Club, Inc., as an athletic organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with five aye votes.*

6. HOUSE-BANKED CARD ROOM APPROVAL:

Club Broadway Entertainment Center, Everett:

Artis Collins, Program Manager, reported this organization has applied for a license to operate 15-tables of house-banked card games. This organization was formed as a privately-held corporation in Washington in June of 1992. The organization is authorized to issue 500 shares of which 10 shares are currently outstanding and owned by the corporate president, Alan R. Hemmat. The Corporation presently holds a Punch Board/Pull-tab Class E license. Special agents conducted a criminal and personal history background on all the substantial interest holders and completed a financial investigation on both the corporation and individual members. No disqualifying information was found. Special agents conducted an onsite, preoperational review and evaluation in accordance with the rules of the Commission. The applicant was found to be in compliance. Based on the results of the investigation and the pre-licensing operations evaluation, staff recommends Club Broadway be licensed as a house-banked public card room authorized to operate up to 15 tables. **Mr. Alan Hemmat** and **Ms. Sharon Hemmat** introduced themselves.

Chair McLaughlin said Everett is her hometown and advised that she was familiar with Club Broadway not as a card room but as a former country-western dance place. **Mr. Hemmet** explained that the building has four stories with six different rooms and is very unique inside. **Mrs. Hemmat** added that the Knights of Columbus originally owned the building. **Commissioner Ludwig** asked when the Club planned to open and Mr. Hemmat responded in a couple of hours if the vote was favorable.

Commissioner Ludwig made a motion seconded by Commissioner Orr authorizing Club Broadway, located in Everett, to be licensed as a house-banked card room in the state of Washington. Vote taken; the motion carried with five aye votes.

Cascade Restaurant and Lounge, Renton:

Artis Collins, Program Manager, reported Hughes Enterprises, Inc. d/b/a Cascade Lanes Restaurant and Lounge has applied for a license to operate five tables for house-banked card games. Hughes Enterprises Inc. was formed as a privately-held corporation in Washington in August of 1973. They are authorized to issue 50,000 shares of stock of which 2,000 shares have been issued with 51 percent being owned by the corporate president, John Edward Spitz and 49 percent owned by Janice Glombia-Spitz. The Corporation presently holds a commercial amusement game license Class A and a Punch Board/Pull-tab license Class I. Special agents conducted a criminal and personal history background investigation on all substantial interest holders and completed a financial investigation on both the corporation and individual members' finances. No disqualifying information was found. Special agents conducted an onsite preoperational review and evaluation in accordance with the rules of the Commission, and the applicant was found to be in compliance. Based on the results of the licensing investigation and a pre-licensing operational review, staff recommends this organization be licensed as a house-banked public card room authorized to operate up to five tables. **Jack Spitz** and **Ray Vincent** introduced themselves.

Commissioner Ludwig said he was curious about the fact that their corporate by-laws authorize the issuance of 50,000 shares of stock. He asked if they were ever going to sell them. **Mr. Spitz** said he hoped not.

Commissioner Ludwig asked when they would like to open and was told by Mr. Spitz, tomorrow at 10 a.m.

Commissioner Orr made a motion seconded by Commissioner Ludwig authorizing the Cascade Restaurant and Lounge, located in Renton, to be licensed as a house-banked card room in the state of Washington. Vote taken; the motion carried with five aye votes.

7. QUINAUT INDIAN NATION – PHASE II REVIEW:

Mike Tindall, Program Manager, Tribal Gaming Unit, introduced Myrna Figg and asked her to introduce other representatives from the Tribe.

Myrna Figg advised that she is the former Tribal Gaming Director at Quinault. She started on January 2, 2000, and resigned December 15, 2000 because she accepted other employment. She noted she was a novice when she started her position as the tribal gaming director. She advised that she had to rely on the TGU staff to help her and everyone was very helpful. She introduced the Commission members: Phillip Martin, Chairman of the Quinault Indian National Tribal Gaming Commission; Frank Peterson, Vice Chair; Joe Kittenare; and B.J. Whitner; lead agent. She also introduced some of the staff: Warren Shale, Acting Casino General Manager; Chrissie Winn, table games manager; and the new TGA Director, Randy Scott. Ms. Figg thanked the Commission for the opportunity to work with the staff.

Commissioner Forrest advised he was impressed with the facility, but the location seemed problematic. He asked how it was doing, were they getting people in, and if the gambling was productive **Ms. Figg** said the marketing has improved, and the weekend business has improved immensely.

Mr. Tindall said it was his understanding that the county sheriff and county prosecutor were going to attend, but they have not yet arrived. He advised there is an issue related to a Memorandum of Understanding (MOU) between the Tribe and the local governments. Mr. Tindall provided some background on the Tribe and the process they had gone through to this point. The Treaty of 1855 established the Quinault Reservation. The reservation consists of 189,621 acres of land on the coast of Washington's Olympic Peninsula, west of Lake Quinault and is one of the larger reservations in the state. The Quinault Indian Nation currently has 2,453 enrolled members and is governed by an 11-member business committee that meets with the officers of the General Counsel. It functions under a set of by-laws that were adopted in August of 1922. The state of Washington and the Quinault Indian Nation entered into the compact for Class III gaming in July of 1996. The Nation then opened their Quinault Beach Resort and Casino on May 22, 2000. This facility has the distinction of being the first tribal gaming facility in Washington State to be

funded by the issuance of tribal government bonds rather than loans or financing from other sources, and it is the first to include hotel and convention facilities in their resort.

Mr. Tindall noted the process for the Phase II Review is outlined in the Compact. The Tribal State Compact allows two levels of operation of Class III gaming – Phase I and Phase II. The Phase I limits allow for 112 operational hours per week on an annualized basis, 31 gaming tables with an option of an additional table dedicated to charity and up to \$250 maximum wagering limits. Phase II operations allows for increases in all those elements and the operational hours goes to 140 hours per week annualized which equates to essentially 20 hours per day and 50 tables of gaming with two additional optional tables for charity and the \$500 maximum wagering limit. Phase I limits are in effect from the time the casino opens and for the first six months, at which time the agency is mandated to conduct a Phase II review. If they are successful, the Nation may then be allowed to go to Phase II limits at the discretion of the Gambling Commission.

The focus of the Phase II review is outlined in the Compact which states that any increase beyond Phase I limits is conditioned upon the following criteria. There have been no violations of the provisions of the Compact resulting in sanctions imposed by the Federal District Court or the National Indian Gaming Commission. During the review none were found. The second condition is that there are no violations of the Compact which are substantial or due to repetition would be deemed material. Staff found no violations that were material by way of repetition; however, they did find 33 violations which are outlined in the materials the Commissioners have before them which required improvement or corrective measures to be done. Corrected measures have been implemented on all 33 items. There were three violations relating to community impact mitigation terms that are required in the Compact, and they remain unresolved. There are indications that mitigating circumstances exist; however, the fact that they are unresolved is of concern. There haven't been any material adverse impacts on the public health and safety or welfare of the surrounding communities in the nature of criminal activities directly related to the operation of Class III gaming facility. Another condition is that there can be no material violations of Appendix A of the Compact. No material violations were found; however, 12 violations of Appendix A were noted in the review and corrective measures were taken. The Tribal Gaming Commission has developed a program of regulation and control demonstrating an adequate level of proficiency, which includes the hiring of tribal gaming agents and independent management and reporting structures separate from that of the gaming facility. A system was developed for the reporting of Compact violations and maintenance of a strong and consistent presence within the Class III gaming facility. Their review confirms that the Tribal Gaming Commission has met the standard, and has done so very well. Additionally, staff confirmed that the Quinault Indian Nation has paid all necessary fees to the Washington State Gambling Commission pursuant to Section 13 of the Compact.

Mr. Tindall advised that staff recommends the Quinault Beach Resort and Casino be conditionally approved for Phase II operation based upon their pledge to enter into memorandums of understanding with local governments as required by the Compact within a six-month period. Staff also recommends the permanent approval of Phase II status upon the initiative of local impact payments as prescribed in the Compact. In conclusion, Mr. Tindall reported that staff found that the government of the Quinault Indian Nation, the Quinault Nations Tribal Commission and the management of the Quinault Beach Resort and Casino to be very responsive to and cooperative with the agents during the review.

Commissioner Ludwig addressed the three community impact mitigation violations and the fact that there were no material adverse impacts on the public health, safety, or welfare of the surrounding communities in the nature of criminal activities directly related to the operation of the Class III gaming facility. If there are no impacts, he inquired why were there violations of the Community Impact Provisions? **Mr. Tindall** responded that the Community Impact Provisions have a requirement that the Tribe and local jurisdictions enter into a cooperative agreement. That is a routine part of the process and also facilitates the ability for the Tribe to direct their payments for mitigation to local community interests. Commissioner Ludwig asked if the payments are necessary if there are no impacts over a six-month period. Mr. Tindall responded that the only thing the Compact mentions with regard to impacts, relates to whether criminal activities impacted the local community as a direct result of the gaming activities. There weren't any criminal activities, but there were other impacts to the local community such as increases in traffic, increases in the number of people coming to the area, and increased emergency medical services, fire and perhaps even road and transportation issues.

Commissioner Forrest questioned if the fire department still wanted \$122,000 for services. **Ed Fleisher**, Deputy Director, noted the language in the Quinault Compact is slightly different than some others on this local impact issue. There's an actual commitment that the Tribe will pay certain monies for community impacts, and the Tribe negotiated and said they were willing to pay for law enforcement, but they wanted to know what the law enforcement people were going to do for that money. That is why this compact, and others, are written this way, providing for an MOU with the local law enforcement before it goes into effect so both sides understand what services will be provided. The compact specifically says that the MOU shall provide for a 50 percent allocation to the Grays Harbor Sheriff's Office, and a few other provisions. The MOU is much more significant in this structure than it is with other tribes, and the extenuating circumstances have to do with exactly that question. The two sides have not been able to get together and it appears that some of the concerns deal with issues beyond monetary impact. The issues pertain to legal issues relating to jurisdiction of the local government and the tribes over this particular piece of property. While the casino is on trust land, it is not on reservation land. **Mr. Tindall** verified that the Tribe has been accruing the two percent remedy. The money is available to be distributed, however, there's no process for doing that without the MOU and without the creation of the committee as a result.

Commissioner Ludwig said it was his recollection that a Commission staff member sits on the local community impact committee. **Mr. Tindall** affirmed that would happen as soon as the committee is established. The actual construction or organization of that committee has to be created by the Tribe and that is yet to be done through the MOU. **Mr. Fleisher** reported that staff attorney, Melinda Froud would be the state's person on the committee. However, the negotiations over the MOU are strictly between the Tribe and the local officials. **Robert Berg**, Deputy Director, noted the larger potential disagreement dispute as to the first response for emergency services on the property has precluded the lesser agreement, which is the MOU for the disbursement of funds, which has precluded the creation of the committee, which has precluded the disbursement of the funds, although they are being accrued.

Commissioner Forrest believed that the U.S. Attorney had given a ruling, and as he understood it, Ocean Shores wouldn't accept it. He went on to say that it is obvious who is holding up the show. **Chair McLaughlin** asked if there were any representatives from Ocean Shores. **Mr. Tindall** replied that notices were sent to the city of Ocean Shores and the Grays Harbor County Sheriff's Office. The Sheriff had indicated that he would attend.

Commissioner Forrest said he didn't think the Commission should condition approval that one side has to meet the demands of the other side no matter how unreasonable. He thought this may not be as unreasonable as it seems; but from the facts before the Commission, both in regard to the fire department, and in particular in regard to the jurisdiction over the land, it might be desirable that they negotiate a deal. He didn't think that one party should have to give up their legal right to control their property in order to continue their gambling. Commissioner Forrest suggested the Commission continue this to let Ocean Shores provide the Commission with a formal written reply. That said, his present inclination was that they should be able to go ahead because he believed that the Tribe is on pretty sound ground and that Ocean Shores is being extremely difficult. Commissioner Forrest acknowledged this is a complicated report, however, he wasn't very sympathetic with Ocean Shores regarding the jurisdiction issue over the land and on the fire department issues.

Commissioner Ludwig addressed the issue of police jurisdiction over that particular land and asked if it had to be tribal jurisdiction for it to qualify under trust land provisions of IGRA. **Mr. Fleisher** responded that as in most cases with Indian law, the questions of jurisdiction aren't real clear. Section 27.19 of IGRA requires, and what the Commission voted on, is that the tribe exercise governmental authority over the land. This is not the same thing as whether that's exclusive jurisdiction or whether the state or the tribe has jurisdiction for particular crimes and activities. The standard the Commission was thinking about back then was a much more general standard. Commissioner Ludwig believed it would be unfair to the Quinault's to continue this until the City took some kind of action -- they could drag their feet indefinitely. He recalled that the community was wholeheartedly in support of this project during the hearings on this particular Compact. Commissioner Ludwig emphasized his belief that the Quinault's should not be held up because the City is negotiating.

Chair McLaughlin recalled that the county was not collecting property taxes on that piece of land because it was trust land under the jurisdiction of the Quinault Nation. **Mr. Berg** said that was correct. He addressed the rationale behind a conditional approval and noted under WAC 230-48, the Commission has choices; they can continue it, they

can grant it or not, or they can condition it. The reason staff selected a conditional approval was because it doesn't require any additional action on the Commission's part or a timeframe. They can condition it on the basis that an agreement be reached because staff felt it would be fundamentally unfair to penalize the Tribe by not letting them increase betting limits or tables simply because an agreement had not been reached. However, because of the previous requirements in the WAC, staff cannot certify that one of the conditions has been met; hence, their request for a conditional certification. Further, by not tying to any specific timeframe in terms of a condition that an agreement must be reached, staff was uncomfortable coming forth with a full recommendation. Staff did not want to hamstring anyone by conditioning to a date.

Commissioner Forrest asked why the condition couldn't be that the Tribe continues, in good faith, to negotiate with Ocean Shores. Commissioner Forrest said that Ocean Shores should come before the Commission and tell them why they are being mistreated. **Chair McLaughlin** asked if the facility was within the city of Ocean Shores. **Mr. Berg** said they were not. **Commissioner Orr** made a motion recommending that the Commission accept this report and grant the Quinault Beach Resort and Casino conditional Phase II operations for six months, and if the local government could bring forth a reason justifying why we shouldn't, the Commission would listen to their reasons. Otherwise, in six months we will continue the condition forever. Commissioner Orr clarified the intent of the motion was to grant the permit for six months, if someone objects and can explain why we shouldn't continue to permit this tribe to gamble, we'll listen to them. If there aren't any objections a permanent permit will be issued. **Commissioner Forrest** inquired if the motion could include a duty for the Tribe to continue to negotiate with the local agencies in good faith. He believed they've been demonstrating an attempt to negotiate, and agreed the Commission should review this in six months. In the meantime, if any of the local agencies wanted to state their case, the Commission would listen to them. **Commissioner Orr** affirmed. **Commissioner Ludwig** stated he was opposed to the motion primarily because he didn't think we ought to penalize the Quinault's even by labeling it as a conditional approval. Additionally, he believed the fact that the funds were being held and put in deposit ought to be enough to get Grays Harbor County and the community to the negotiating table. **Chair McLaughlin** asked if because of the situation, the only option for the Commission was a conditional permit or a continuance. **Jerry Ackerman**, Assistant Attorney General, responded that there was a full range of options: conditional approval or unconditional approval. Mr. Ackerman believed that there is a specific requirement in this Compact that the MOU's be entered into – and there's an implied requirement that both parties negotiate in good faith to achieve that objective. Certainly, if the county or the city came before the Commission six months from now or three years from now and said we don't have an MOU because the Quinault's won't negotiate with us, at that point there could be a potential a violation of the Compact. It could be brought back before the Commission to take whatever action was deemed appropriate at that point. Mr. Ackerman supported the suggestion for the open-ended condition, which memorializes the obligation of the parties to negotiate in good faith, and is legally possible. Mr. Ackerman advised the Commissioners could also flatly approve the Phase II license at this point and put the onus on the county and city to come forward at some point in the future to say there is no MOU; that's a violation, and the reason there is no MOU is because the other party is not negotiating in good faith. The Commission could then address the issue at that time.

Commissioner Orr restated his motion, which was seconded by **Commissioner Forrest** to approve the Quinault Beach Resort and Casino for a conditional Phase II approval for six months and that the parties should continue to negotiate in good faith. The Commission will review the license in six months. If local government gives a reason why the license should not be continued the Commission will listen; otherwise in six months the Commission will authorize a permanent license. **Chair McLaughlin** opened the discussion for public testimony.

Phillip Martin, Chairman of the Quinault Indian National Tribal Gaming Commission advised that he contacted Tribal Chair Pearl Capoeman-Baller, who assured him the tribal council would be negotiating in good faith. They feel they have and emphasized that it is in their interest to have public safety services for their guests and visitors. Chairman Martin believe a portion of their problem is the political atmosphere of either or both of the communities. Chairman Martin indicated the tribe sent at least one memorandum of agreement to both of the parties, and has not received a response or any comments. **Commissioner Ludwig** wanted to know who, specifically, they were dealing with. Mr. Martin responded that he did not know the names other than the individuals were county commissioners. **Mr. Berg** indicated this is not so much a personality issue as it is an issue with agencies and units involving the Grays Harbor County Commissioners, Grays Harbor County Prosecutor, Grays Harbor County Sheriff, Ocean Shores Fire Department, Ocean Shores Police Department, and Ocean Shores General Government. **Mr.**

Ackerman suspected the reason the city of Ocean Shores is involved is because of mutual aid contracts for fire and police and because they're the closest responding entity. **Mr. Tindall** affirmed that was the consideration when the Compact was written.

Commissioner Parker asked if a conditional approval would have an impact in terms of the financing or the credibility with creditors in the marketplace. He noted that if people think there is a sledgehammer hanging over their head, and if the objective doesn't happen in six months, then the whole license issue might have to be brought to halt. **Mr. Tindall** affirmed that might be a significant issue in light of the fact that the Tribe issued government bonds to fund the project, and their bond rating may be adjusted based on this action. Commissioner Parker responded that in that respect, a motion by this Commission to grant approval with an understanding the MOU has yet to be put in place, and with instruction to staff to simply stay on top of it and report back to the Commission when it's done, or to report back to the Commission if there's a problem, would be appropriate. Mr. Tindall sincerely believed the Quinault staff and local governmental entities would keep staff informed.

Randy Scott, Director of the Tribal Gaming Authority for the Quinault Nation (beginning next week), affirmed the Tribe has been in correspondence with all the entities named. He advised they would continue to be in correspondence and will report to the Commission their progress. Mr. Scott expressed concern about the conditional approval because it didn't necessarily force the other entities to come to the table.

Chair McLaughlin noted the community was very optimistic about the whole project at the original hearings. She asked if the impacts to Ocean Shores were favorable or not. **Mr. Scott** didn't think they had impacted other businesses in a negative manner. Mr. Scott addressed the history of Indian Tribes, jurisdiction and Public Law 83-280. This was a law Congress passed in the '50s that gave the states unequivocal rights to assume jurisdiction within their boundaries. The Quinault Nation is not a Public law 83-280 tribe, and some people view that the Tribe is one with jurisdictional problems with the state, the Tribe believes that jurisdiction is concurrent.

Commissioner Ludwig asked whether the county prosecutor or the other agencies had given them their proposal or position. **Mr. Scott** and **Mr. Tindall** replied that formal proposals had not been submitted. There were some discussions in person and there were some letters transmitted, but the only formal presentation of a proposed MOU came from the Tribe to the county and the other governments. Mr. Tindall affirmed there has been no document of reaction. Commissioner Ludwig announced that for all of the reasons presented, he believed unconditional approval for Phase II wagering limits should be granted to the Quinault Nation. He affirmed they would be subject to sanctions under the Compact. **Chair McLaughlin** reminded Commissioner Ludwig that a motion was on the floor. Commissioner Ludwig understood and indicated that he was arguing against the motion. He noted that the other agencies are not subject to any sanction at all unless the Compact is amended and the community impact requirement is stricken. **Mr. Tindall** affirmed that would be the only penalty that could be achieved, and that would require renegotiating. Commissioner Ludwig reiterated that the Tribe was setting the designated money aside, and that money would not be dispersed until the involved entities reach some agreement. Commissioner Ludwig hoped that would motivate the entities to complete their negotiations. Commissioner Ludwig believed some were dragging their feet and he didn't think this agency on behalf of the state of Washington should sanction that at all. Chair McLaughlin called for any further comments from the audience and there were none.

Commissioner Orr withdrew his motion and asked Commissioner Forrest if he wished to withdraw his second. **Commissioner Forrest** said he and Commissioner Ludwig do not agree about this issue. **Commissioner Orr amended his original motion to state that the Commission grants the Quinault Beach Resort and Casino Phase II wagering limits for the operation.** **Chair McLaughlin** asked if Commissioner Forrest wished to second the motion. **Commissioner Forrest** said no. **Commissioner Ludwig seconded the motion.** Chair McLaughlin called for further discussion.

Commissioner Forrest stated the motion and the approval should reflect the fact that there is a duty on the Tribe to continue negotiating in good faith – it is implicit in the Compact. He didn't see that this would jeopardize anything. Commissioner Forrest noted there is no sanction on the governmental units, and if this motion is passed, there won't be any sanctions on the Tribe, which could encourage loggerheads. He believed there's no harm to the Tribe's position that indicated they were willing to continue to work on this -- that's what they should do, what they are expected to do, and it's what the Compact requires. Commissioner Forrest felt that when there is a clear failure to

meet the terms of the Compact (granted it may be excusable, but it's still a clear failure), granting an unconditional approval just encourages the next time someone has something in the Compact that's not performing well, to indicate that we approved it for "them" so we should approve it for the next case. Commissioner Forrest stated he was opposed to the motion in its present form. **Commissioner Ludwig** responded to the comment that if this is approved then the next one will want it, and reiterated that the Commission could approve the Phase II limits, and then if the parties don't continue to negotiate in good faith, the Commission could come back with a Compact violation. Commissioner Ludwig said the Quinalt's would be subject to some penalty if they fail to keep trying; and it sounded like they've been trying hard and in good faith, and that the other parties have not .

Commissioner Parker asked if they couldn't let the record show that the motion to grant approval is not intended to amend the compact and does not take away the requirement that there be an MOU. The motion is based on the understanding that it is still a requirement under the compact. **Chair McLaughlin** asked if there are any stipulations in the compact that says the Phase II Review cannot go forward unless everything is in place. **Mr. Tindall** said no. Chair McLaughlin said she could not understand why they are making it conditional. Mr. Tindall clarified that staff did not consider themselves to be in a place to make a decision regarding the severity of a violation; they wanted to bring this to the Commission's attention. In good conscience, for the staff to go forward with a complete unconditional recommendation, there should be no violations or issues pending, and that is not the case here. From all the information staff has collected, it didn't appear to be the Tribe's responsibility that this condition exists. Therefore, **Mr. Tindall** believed that may mitigate the fact that there is a violation, but it is still a violation and therefore was brought it to the Commission's attention for consideration.

Commissioner Ludwig called for the question. *Vote taken; the motion carried with four ayes. Commissioner Forrest voted against the motion.* **Phillip Martin** emphasized the Tribe would continue to work with the county and Ocean Shores -- they are neighbors and have to live and work together.

STAFF REPORT – LEGISLATIVE UPDATE: (From Friday's Agenda)

Deputy Director Ed Fleisher reported that this month, he brought copies of all the bills he would be discussing. He did not plan on bringing the copies every month, unless something specific happens with the legislation.

Gambling Request Legislation.

HB 1307/SB 5064 Cheating at Gambling. The bills have been introduced in both houses. The Senate has had a hearing and passed it out to the Rules Committee. It appears these bills are moving forward.

Legislation with Significant Impact on the Gambling Commission

HB 1446/SB 5429 Electronic Bingo. These bills would authorize charitable and nonprofit Bingo halls to operate what is generally referred to as Class II Bingo machines. These are the type of devices that a number of the commissioners are familiar with that have been played in tribal casinos under tribal and federal regulation, however, there has not been state regulation in the past. The bill would limit them up to 200 machines per facility. Bingo halls in this state are limited to play their Bingo games three days a week. This bill would allow the machines to be played in the hall up to seven days a week. These are Bingo-type linked gaming devices; they are not the tribal lottery machine or slot machines, they are simply an electronic form of Bingo. The House is planning to take executive action on this bill next Tuesday. Mr. Fleisher affirmed the bill is similar to legislation that the Commission saw last year and the year before. This is a bill that the legislature would be looking to the Commission for a position. **Chair McLaughlin** called for public testimony.

Joe Beck, Executive Director, Washington Indian Gaming Association, said they are in opposition to HB 1446 as it currently exists. More specifically, they think that having the ability within the bill to have machines seven days a week is an expansion of gambling. The Association is also concerned about the geographical location of new facilities that may be cited, and they are concerned about the word symbols in the bills as opposed to numerical signs normally played in Bingo. Lastly, they are concerned about the definition and number of the machines. Mr. Beck felt there was a possibility these machines could eventually be seen as Class III machines. As currently cited within the bill, there is a possibility of allowing up to 200 machines in each facility. The Association has spoken with the respective lobbyist for the charities regarding these issues, but at this time, given the current configuration of the bill, the Washington Indian Gaming Association opposes the proposed legislation.

Chair McLaughlin asked if they might support the legislation if it looked different. **Mr. Beck** said he could not comment on that because he has not had a chance to speak with his board regarding potential amendments. **Commissioner Ludwig** asked what difference it would make to the Native American tribes whether it's a Class II or a Class III machine. Mr. Beck responded that under IGRA or the compact --Commissioner Ludwig countered that they are not under IGRA; that the issue at hand relates to commercial nonprofit, charitable Bingo halls. Mr. Beck said he could not completely answer that question. However, given the proliferation under the current configuration of 200 machines being allowed per facility, that was in direct competition to some of the more rural tribes, especially for smaller tribes such as the Swinomish who currently only have 35 Bingo machines at their facility. Commissioner Ludwig said his question relates to whether it was Class II or Class III. Mr. Beck again responded that he could not completely answer that question. **Director Bishop** explained that if it were determined to be Class III by the federal courts or NIGC, then it would be subject to Compacts and state involvement in regulation. He didn't think that would happen because the state has no involvement in regulating Class II gaming; that is solely the tribes' jurisdiction.

Ed Fleisher explained that in the non-tribal arena staff has been using the terms Class II and Class III because everyone is generally familiar with the terms. Actually the terms have no meaning under state law, it's what is legal or what isn't legal and whether a particular version might be considered Class III for IGRA purposes. The NIGC would not affect this legislation. Mr. Fleisher reported that staff completed the fiscal note and it is estimated that if the bill passed, it would require approximately additional three FTE's to regulate the activities. There would be fees imposed for the electronic Bingo devices, which would cover the cost of the regulation. There would also be a fair number of rules that would need to be adopted by the Commission. The bill doesn't cover a lot of these details, but leaves it to the Commission to adopt rules, and staff will bring them forward should the bill pass.

Steve Strand, President of Washington Civic and Charitable Gaming Association, advised that as the prime sponsor of the bill, he was available to answer any questions. **Chair McLaughlin** asked if they are absolutely tied to 200 machines and seven days a week? Mr. Strand said the number of machines would be market driven. He noted the prime motivator behind the bill that the charitable and nonprofit organizations wanted to address was facility management and how to better utilize their facilities when they are only available three days a week for Bingo. Chair McLaughlin asked what would happen if the legislature only authorized up to five days. Mr. Strand said that they are not an all or nothing Association, they would take what the legislature provides. He affirmed they would be working hard to provide an additional type of product that will appeal to larger markets, and the electronics format is a significant area. Chair McLaughlin stated that she supports the charitable Bingo getting the electronic machines simply because this is a different world. People like to use electronic machines. She believed that Bingo operators ought to have some kind of electronic Bingo machine. Mr. Strand affirmed this would be the third attempt for this particular product, and it appears to have the best opportunity for success this year. Mr. Strand said the bill is a great starting point and a best hope.

Nick Peck, Silver Buckle Rodeo Club, Vancouver, explained why the seven days is important. It's a straightforward commercial reason, which comes as much from the manufacturers of this equipment as the operators. It is simply not economical to operate the equipment for three or four days. Seven days was suggested in order to make the activity economically viable for the suppliers and the operators. Mr. Peck asked if the Chair would indulge the WCCGA if they came before the Commission tomorrow with a formal request to support the legislation. **Chair McLaughlin** affirmed. **Commissioner Ludwig** also offered his support. Chair McLaughlin advised further discussion would be delayed until tomorrow in order to hear what the WCCGA has to say about the bill.

Limited Waiver of Immunity HB1797/SB 5905. A bill to provide for a limited waiver of the state's sovereign immunity or Eleventh Amendment defense in federal court cases involving disputes arising under IGRA or under tribal state compacts. That waiver for those two purposes is conditioned upon the tribe providing a similar waiver and it was modeled after language in some other legislation last year. This is another bill that the legislature would be looking to the Commission for a position.

Mr. Beck, Executive Director, Washington Indian Gaming Association, stated that he would argue for this bill. Basically, this bill will allow for a continuation of the dispute resolution process within another venue. The Washington Indian Gaming Association is in strong support of this measure.

Commissioner Forrest said he favors this bill and asked if any action would be taken. He hoped the Gambling Commission would endorse the bill. He advised there is a need for a forum to resolve issues that may arise with the tribes. He believed this is a reasonable solution that would encourage the state and tribes to resolve differences. **Chair McLaughlin** affirmed they could take action. **Commissioner Ludwig** agreed with Judge Forrest, and asked Assistant Attorney General Ackerman if he liked the bill as written. **Mr. Ackerman** said he had no official position. He advised this is purely a policy call for the Commission to decide. He asked the commissioners to recognize that the state has already waived sovereign immunity for purposes of being sued in state court. For clarification, this is about whether you also want to be sued in federal court. Chair McLaughlin asked if it had been talked about in his shop. Mr. Ackerman responded that it is under consideration in his office, but he didn't know what the official position would be, or whether the office would even take a position.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve the Limited Waiver of Immunity bills HB1797/SB 5905.

Commissioner Parker added that the bill makes this waiver of the state's immunity a condition upon a tribe waiving its immunity. It's not like a blank check or a one-way deal. He believed this seems like a very even-handed and fair approach. He asked if Mr. Fleisher had any report in terms of the reaction in the legislature so far. **Mr. Fleisher** responded in the negative and suggested that by next month he would have more information. The signatures were gathered and the bill was just dropped this past week. *Vote taken; motion passed unanimously.*

HB 1553/SB 5553 Task Force on Combining Gambling would establish a task force to study over the interim and report back next December as to the possibility of combining the Gambling Commission, the Lottery Commission, and the Horse Racing Commission. This subject has been submitted before and it's come up again in this session because of some problems with the Horseracing Commission. This will be an 18-member task force, and one of the members is the Chair of this commission. **Mr. Fleisher** asked whether the Commission would like him to suggest to the legislature that it be the Chair or the Chair's designee because it may have quite a time commitment. Mr. Fleisher advised that unless he heard differently, he would intend to ask the legislature to give that flexibility to the Gambling Commission. **Chair McLaughlin** asked if that would provide an impression that the Commission is supportive of the legislation.

Commissioner Orr asked if there was a fiscal note and questioned how it would be funded. **Mr. Fleisher** wasn't aware if a fiscal note had been requested. As with most task forces, he expected that the legislature would intend that the state agencies involved pay their own way. The cost to the agency would be whoever attends the meeting. Mr. Fleisher noted his indication from Senator Prentice is that she thinks its time to look at this again, but she's not inclined to combine the agencies because of the issues that have been raised before. **Commissioner Ludwig** asked if the issues raised before included the total incompatibility between the Horseracing Commission function and the Gambling Commission function. Mr. Fleisher said the differences have been raised in the past and particularly the one of this agency being one that is regulatory only and not involved in the promotion of gambling activities. **Director Bishop** noted this is the first time the study has included these three Commissions, in the past it's always been the Liquor Board, the Lottery and the Gambling Commission -- this is the first time horseracing has been included.

Other Legislation of Interest to the Gambling Commission:

HB 1384 Executive Session – **Mr. Fleisher** reported this bill puts some limits on the ability of the Commission to go into executive session relative to threatened litigation or potential litigation. This is an issue that's come up because of some practices in various cities and towns. The main catalyst for this bill was the Olympia City Council going into executive session to decide how they were going to handle the demonstrations for the anniversary of the WTO protests.

HB 1503/SB 5403 Reauthorizing the Expedited Rule Making Process. The Commission has used this a little bit. The current law will sunset if the legislature doesn't reenact it.

Senate Bill 5487 Prohibiting Smoking in House Banked Card Rooms. Introduced by Senator Morton to prohibit smoking in house-banked card rooms.

Senate Bill 5573 Raffles by Student Groups and Public Hospitals. This legislation adds two additional groups to the charity and nonprofit groups that are allowed to conduct raffles. It adds student groups and public hospital associations. This is a bill by Senator Snyder. It places a slightly more liberal limitation on them, and a slightly higher limit on how much can be raised through their raffles. There is some work being done on the bill to clarify exactly what qualifies as a student group. The Office of the Superintendent of Public Instruction had some concerns about that as well.

Senate Bill 5645 Issuance or Renewal of Gambling Licenses. This bill would require the Gambling Commission to give notice to local governments anytime we issue or renew any gambling license, and allows the local jurisdictions to file written objections with this Commission and to request a formal hearing. This bill arose out of the Café Arizona issue in Tacoma. The intent was not to do it as broadly as written. If read literally, it applies to every single license the Commission issues including individual dealers' licenses. There will be a hearing on this soon, however, even the people promoting the bill have come to the conclusion that perhaps they should just have a hearing this year, study it, keep an eye on it over the next year, and come back to it the following year.

PRESENTATION:

Chair McLaughlin announced her intent to call for a recess and she noted that after the break there would be two default hearings and a petition for review. She believed some of the audience may not come back after the recess, so she decided to make a presentation to Director Bishop prior to recessing. She noted that Director Bishop graduated from St. Martins College in 1977 with a BA in Management and Accounting while he was still in the Air Force, from which he retired on August 1, 1979, after serving over 20 years of exemplary service to his country. He received his CPA certificate in February of 1980 and began his career with the Gambling Commission on February 2, 1981, as a Gambling Investigator Auditor in the Tacoma office. He was promoted to Senior Auditor on March 1, 1982, remaining in Tacoma. He was then promoted to Gambling Audit Supervisor on July 1, 1982, and on June 12, 1984, Mr. Bishop was appointed to the Assistant Director for the Audit Division. About a year later he was assigned as Assistant Director of the newly-formed licensing and operational support division which eventually became the licensing operation division. He was appointed Deputy Director on July 15, 1994, and on October 1, 1997, he was promoted to the Executive Director position, which he is currently holding. On a personal note, the Commissioners extended their appreciation for his dedication and diligence to his job and to this agency. Chair McLaughlin advised that "we have come through some troubled times together" and the Commission looked forward to many more years together. She congratulated Director Bishop on his 20 years of service and presented him with an award and an official certificate of commendation for his 20 years of service to the state of Washington. **Director Bishop** sincerely thanked the Commissioners.

Chair McLaughlin recessed the meeting at 4:15 p.m. and recalled the open public meeting at 4:30 p.m.

8. DEFAULT HEARING – Failure to Submit Quarterly Activity Reports:

Index Tavern, Index:

Amy Patjens announced that this business has failed to submit its activity report, which was due July 31, 2000, and has still not been received. She explained that businesses are required to complete and mail quarterly reports to the commission. They are used by the agency to keep statistics and calculate what is happening in the industry – whether it is growing or shrinking. Some local jurisdictions rely on these activity reports to calculate the gambling taxes due. In this case, before staff issued the charges, staff made several attempts to contact the licensee and request the report. Several letters were sent and staff followed all the necessary procedures as well placing additional phone calls as outlined in the memorandum behind Tab #3. The charges were personally served to a bartender at the business and staff tried to contact the owners to no avail. Ms. Patjens explained that by not responding to the charges, the Index Tavern waived their right to a hearing. Staff is asking that a default order be entered and the pull-tab license be revoked. Ms. Patjens affirmed this is a stiff penalty, but in this case, staff has done everything possible to get the report and received no response.

Chair McLaughlin asked if there is some way of assuring that they don't get any more punch boards and pull-tabs. **Director Bishop** advised that staff would serve the order and make sure their inventory is removed from play. They also will go off of the approved licensee list that each distributor receives. Any Washington State distributor would then know they no longer have a license – or should check to see if they have a license before selling products to them. **Commissioner Ludwig** asked if the licensee continued to play, would it be like any other form of illegal gambling – we would investigate it and the licensee could be prosecuted. **Director Bishop** affirmed and added that late reports and the lack of people reporting has been a constant battle. **Chair McLaughlin** asked if anyone from the Index Tavern or anyone else wished to speak to this matter. No one came forward.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to revoke the Index Tavern license.

Commissioner Ludwig said he was in favor of the motion, and asked if the licensee would be able to reapply at a later date. **Director Bishop** responded that typically, if someone who had their license revoked came back and asked for a license, the first thing that they would be required to do is to provide all the past reports due, and then address the appropriate penalty. **Director Bishop** stated this would not be a fatal error, but the licensee would have to go meet some requirements before getting licensed. **Chair McLaughlin** asked if there were any further comments from the public or the Commissioners; there was none, and she called for a vote. *Vote taken; the motion passed unanimously.*

9. DEFAULT HEARING – Cardroom Employee's License:

William Schill, Tacoma:

Amy Patjens noted that the basis for this denial request is criminal history. Mr. Schill has a 1997 conviction for violating the Uniform Controlled Substance Act and he was served with the charges by certified mail. Staff also left a phone message for him and they have not received any response from him. Ms. Patjens explained that by not responding to the charges, Mr. Schill has waived his right to a hearing. Staff is asking that a default order be entered and that Mr. Schill's application be denied. **Chair McLaughlin** asked if **Mr. Schill** or anyone present wished to speak to this topic. No one came forward.

George Orr made motion seconded by **Commissioner Ludwig** that the gambling license application for William Schill be denied as of this date. *Vote taken; the motion passed unanimously.*

10. PETITION FOR REVIEW – Application Denial:

Kylyn Wollery, Great Wall Casino, Tacoma:

Chair McLaughlin announced that Commissioner Forrest would be the presiding officer of the hearing. Attorney Joseph Mano represented Kylyn Wollery, and Assistant Attorney General Neil Gorrel presented the state's case. After both sides presented their cases, the Commissioners called for a ten-minute executive session to deliberate. [A certified copy of the review is on file with the Gambling Commission]

The open public meeting was recalled and **Commissioner Forrest** announced the Commissioners had reached a conclusion and was prepared to take formal action. **Commissioner Ludwig** made a motion seconded by **Commissioner Parker** to overrule the hearing officer's initial order and grant Mr. Wollery a license. *Vote taken; the motion passed with three aye votes. Commissioner Orr and Commissioner McLaughlin voted nay.*

Commissioner Forrest affirmed a written order would be prepared by Counsel to include the responsibilities Mr. Wollery will have as a licensed employee.

11. OTHER BUSINESS/GENERAL DISCUSSION COMMENTS FROM THE PUBLIC:

Chair McLaughlin called for comments from the public, Commissioners and staff. There were no comments.

12. EXECUTIVE SESSION TO DISCUSS PENDING INVESTIGATIONS AND LITIGATION:

Chair McLaughlin recessed the public meeting to conduct a half-hour Executive Session at 5:35 p.m., and advised that no business would be conducted following the Executive Session.

13. ADJOURNMENT:

At 6:05 p.m. the open public meeting reconvened. At 6:07 p.m. **Chair McLaughlin** declared the meeting adjourned until 9.30 a.m., February 9, 2001.

**COMMISSION MEETING
FRIDAY, FEBRUARY 9, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 9:30 a.m., at the West Coast Hotel in Olympia. **Chair McLaughlin** noted that Commissioner Parker could not be present today. The following attendees were present:

MEMBERS PRESENT:

COMMISSIONER and CHAIR, LIZ McLAUGHLIN;
COMMISSIONER and VICE CHAIR, GEORGE ORR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST;

OTHERS PRESENT:

BEN BISHOP, Director;
ROBERT BERG, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
SHERRI WINSLOW; Special Assistant;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant

1. MINUTES – January 11 and 12, 2001:

Commissioner Forrest made a motion seconded by **Commissioner Orr** to adopt the minutes of the January 11 and 12, 2001, meeting as presented. *Vote taken; motion carried with three aye votes. (The Chair abstained due to her absence from said meetings.)*

2. STAFF REPORT – LEGISLATIVE UPDATE: (Continued Discussion from Thursday, February 8, 2001)

Chair McLaughlin noted the Legislative Update was provided yesterday, but an item had been carried over to today's meeting to discuss the electronic Bingo bill by the charitable organizations, and she noted the Charitable Gaming Association would be making a request. **Mr. Fleisher** explained HB 1455 and SB 5429 are the bills that would authorize the electronic Bingo machines for use by the charitable operations, and their organizations were present to provide testimony.

Steve Strand, President of the WCCGA, asked for the Commission's support of House Bill 1446, which is currently in committee. He noted the bill now will include the five-year moratorium on new licenses – in essence, it puts a much smaller cap on the total number of machines possible. **Mr. Strand** thanked the Commission for their past support and asked for their continued support on the current bill.

Chair McLaughlin asked how many licenses they had right now. **Mr. Strand** responded approximately 385. **Chair McLaughlin** asked if we are talking about the possibility of 70,000 machines. **Commissioner Ludwig** asked how many that factored out per license. **Mr. Strand** said the bill states a maximum of 200 machines per licensee. **Commissioner Ludwig** stated that assuming a lot of the licensees can only support 20 or 30 machines, he asked if

that next request would be to let other businesses share the allotment. **Mr. Strand** responded in the negative. He explained that the goal was to state the number of machines so it would be understandable in current marketing conditions. He believed that even in the existing venues, the market dictated 30-40, or even 50 machines. The objective was not to have to revisit this in the future. The industry doesn't know what the market will be three years from now. He clarified they are not now, nor will they ask for any sharing or other type of arrangement similar to the "X" machines in the tribal venues. The allotment is strictly per licensee.

Chair McLaughlin asked if they were set on seven days a week. **Mr. Strand** responded that they are not set on any number -- they are looking to gain the Bingo machine. Bingo has been authorized for charitable organizations for many years and they are simply looking for a product that will provide a different venue, and an appeal to different demographics. Hopefully, it will bring back attendance. The primary goal is to get this product and the industry established an initial level which would be advantageous now and provides some opportunities for the future. Mr. Strand reported that so far, support of the bill has been very good from both committees in the house and senate. This is the third year this bill has been submitted. This one is narrowed down, last year's bill had some tie-ins that may have clouded the total picture. The current bill is focused on this particular type of product and has received good support. Mr. Strand asked if this Commission would provide formal support. **Chair McLaughlin** inquired whether a fiscal note had been completed. **Mr. Berg** responded that the fiscal note was actually completed and forwarded to the Office of Financial Management yesterday evening. The biennium cost is estimated at \$255,571, offset by revenues of \$252,800. The assumptions were that a limited number of manufacturers would go from one to three or four, over time, and the agency would probably need three FTE's to regulate this new activity. Chair McLaughlin called for public testimony.

Don Kaufman, Big Brothers and Big Sisters, Spokane, addressed the seven-day issue and advised the Commission that the industry is very concerned that they won't be able to find a manufacturer that will work with them on a revenue-sharing basis for the three-day week operation. Mr. Kaufman believed they would require the seven days in order for it to be a viable product in the marketplace. **Commissioner Orr** asked Mr. Kaufman if he had been visiting with Representative Wood. Mr. Kaufman affirmed that he had, and that Representative Wood had co-signed and sponsored the house bill, and that he's been very supportive.

Commissioner Ludwig asked how Mr. Kaufman anticipated drawing the people in four days a week when they aren't playing Bingo if all. **Mr. Kaufman** said this would be marketplace driven. They've talked about opening the machines around 10 a.m., and they will probably have some type of lunch crowd. In his situation, the facility isn't far from the courthouse area and they are surrounded by a lot businesses and people looking for economical lunches. This also gives them an opportunity to sell pull-tabs all week long. Mr. Kaufman envisioned a low-scale, small operation with several tables of machines and a pull-tab counter and a lunch being available. They don't plan to be open very late in the evening on their non-playing days. On their playing days, it will bring crowds in beforehand and will help crowds stay longer. Mr. Kaufman believed this format will give a venue for the players who really can't relate to sitting in a Bingo parlor, and amounts to drop-in Bingo. The person who has 45 minutes on his/her way home from work might stop in and spend 30 of it with them and then go home. They haven't had that opportunity really in regular Bingo.

Director Bishop noted for the record that the agency's fiscal note was computed based on a current policy of no revenue-sharing in gambling activities, and he was fairly sure the manufacturers were aware of that and indicated that accommodations could be made. That is not to say that policy couldn't be changed, but current policy is no revenue sharing. Director Bishop further explained that Mr. Kaufman mentioned that they needed enough time for the revenue sharing to work from a manufacturer's perspective and he wanted to clarify that all of the current planning in the fiscal note does not allow revenue-sharing.

Chair McLaughlin asked if there were any other questions and there were none. She asked if there were others who wished to speak to this issue at this time. No one came forward and the public hearing was closed. Chair McLaughlin said the Commission does not normally take an official vote on supporting other people's bills before the legislature, but this is something they have done in the past.

Commissioner Forrest made a motion seconded by Commissioner Orr that the Commission generally endorses the legislation to authorize the use of these machines in the charitable nonprofit Bingo operations. Vote take; motion passed with four aye votes. Chair McLaughlin wished them well and hoped it helped them.

Rules Up For Final Action

3. Bingo Net Return Task Force Rules

WAC 230-04-260; WAC 230-20-059; WAC 230-20-062; WAC 230-30-052; WAC 230-50-010; WAC 230-02-138; WAC 230-02-362; WAC 230-02-364; WAC 230-02-366; WAC 230-02-530; WAC 230-02-535; WAC 230-02-540; WAC 230-20-058; and WAC 230-20-060.

Deputy Director Ed Fleisher noted these rules have been discussed for several months and that there had been numerous versions of the rule published. Of the 14 rules he focused mainly on WAC 230-20-059, which is the key rule. Of the remaining rules, nine are repealers and the other four are amendatory language to make them comply with the rule that is the main substance of this, which is the net return or net cash flow rule. He noted that WAC 230-20-059 sets forth the minimum cash flow requirements for Bingo operations. Since last month, staff reviewed the rule to focus on the two primary goals: to design a system-based primarily on the measurement of the real dollars available for the charitable purposes from the Bingo operation and at the same time, that the design be simple to understand and to administer.

Subsection (1) of the rule sets forth the minimum quarterly cash flow standards that licensees are required to meet in order to be in full compliance with this rule. The standards are significantly lower than they've been in the past and staff considers them to be the floor – the minimum required – not the goals that they hope are reached. Using the flow chart to demonstrate, he explained that the way this rule will work is there will be two tests. As the quarterly activity reports come in from the licensees, they will first look back at the last two quarters. The question is: Did the licensee meet the minimum cash flow requirements for that period? If the answer is no, then they will ask the question: well, did they have a positive cash flow? If there was not a positive cash flow in each of the two previous quarters, or it's been negative for both quarters, then the director will act to suspend the license. If the licensee fails to meet the minimum requirements but they did have a positive cash flow for the previous two quarters, then, this is the early warning section. A sanction is not imposed, but the Commission will ask the licensee to develop a plan as to how they're going to gain compliance by the end of the next six months and submit that plan to the Commission so they can work with them on getting back in compliance. That's the first test.

The second test is what staff calls the four-quarter test and would involve sanctions. It has been structured this way in recognition of the cyclical nature of this business, and to look at a full year's picture before taking action, except in those cases where the cash flow is negative and there is an extreme situation. Looking back four quarters, staff asks: Did the licensee meet the minimum adjusted cash flow requirements? If yes, everything is okay. If no, administrative actions would be started against the licensee.

They include, two opportunities for a variance. If the licensee fails to meet the four-quarter test, in both cases, the variance would come before the Commission. The first variance is for the licensee who fails to meet the adjusted cash flow requirements, but is within 10 percent of those requirements. The feeling was that someone that misses the requirements for the last year by a few dollars should have an opportunity to come forward and explain the situation. There should be some leeway there at the discretion of the Commission. Again, this is a floor, so even if the licensee was below it, even by a dollar or two, at least they should come forth to the Commission with a plan as to how in the future they are going to be able to exceed the minimum requirements.

The second variance opportunity is in recognition of the fact that many of the licensees are committed through leases or mortgage loans or other legal documents to long-term financial obligations for their facility. This variance puts a window in that says when this rule goes into effect, they are involved in such a long-term obligation and they feel that it is a significant factor in their inability to meet the minimum requirements. They can come forward to the Commission and ask for a variance for up to two years to allow for those long-term fixed obligations. Staff will be asking that the rules package, if the Commission adopts it today, be effective on April 1st because they want it to be effective at the beginning of a quarter. It will also be much easier for licensees and staff as most of the reporting on this is done on a quarterly basis.

Chair McLaughlin emphasized that this is a floor. If everyone is at the floor, she will want to revisit this again because she didn't want them to think this is all they have to make for their charity. Some can make more, and she realized that there would be some that can't. **Mr. Fleisher** affirmed the intent.

Mr. Fleisher said there are two changes to this draft that staff is also recommending. He referred back to the first page of Alternative #5 WAC 230-20-059. In the first paragraph, the second to the last line, the procedures and limitations are limited to Class D and above. Staff recommends that that language be stricken for the following reasons. The intent all along had been that the minimum cash flow requirements only apply to license Classes E and above, but that even those that are Classes A, B, and C must meet the positive cash flow requirement. Staff realized that the way this is written, the Class A, B, and C licensees were not only exempt from the minimum return requirements, which they intended, but they were also exempt from the requirement that they maintain a positive cash flow. That can be fixed by simply striking the underlined words on that line. The way the rest of the rule is drafted, the only part that would apply to them is subsection (3), the positive cash flow requirement

Mr. Fleisher clarified that the five underlined words – the “D” is a word – should be taken out. Staff believes this will work the way they have been intending all along. **Commissioner Forrest** said that everyone will have to have the positive cash flow. Mr. Fleisher affirmed and said A, B, and C – the rest of the rule doesn't apply to them because they are licensees that are below the threshold \$75,000 a quarter, and that subsection 1(a) starts at \$375,000. Mr. Fleisher affirmed they will still have a reporting requirement and their reporting requirement is annual. If a licensee made a lot of money, then once they realize that, they would have to upgrade their license to the appropriate class. Commissioner Forrest indicated that if they lose money, then it's the guillotine.

Mr. Fleisher advised this would cover both the Bingo game and the Bingo game played on the electronic devices. If they had the machines, this would cover the machines. Mr. Fleisher advised that staff has also been reviewing the data and the history on the numbers from Bingo operations under the current environment and they hope that will go up. **Commissioner Forrest** said it would be a pleasure to look for the problem of too much money instead of too little. It was affirmed that staff will continue to look at the numbers and hope to see them well above the floor.

Mr. Fleisher reported the second change pertains to a proposed amendment relating to the modified definition of cash flow. This is not the traditional accounting definition of cash flow -- they make adjustments for depreciation on one side of the ledger. They didn't address what happened if a licensee spent significant amounts of money on the expenditure side of the ledger. Staff recognized that the adjusted cash flow definition was not included. However, there was a feeling that there should be some language to deal with those significant capital expenditures and that at least the governing board of the organization ought to be aware of these decisions. Therefore staff recommended language that would merely require that all capital expenditures for the Bingo operation that exceeds \$6,000 be approved by the governing board. This was discussed at the workshop yesterday morning. There's nothing magic about the \$6,000 number. Staff picked a number to get the discussion going. Staff wants significant capital expenditures to be included, but they also recognize there's got to be flexibility for the managers on the smaller class capital items to have some delegated authority to make the decision.

Chair McLaughlin wanted to know what it would mean if the Commission picks Alternative #5, would all the other material be deleted. **Mr. Fleisher** indicated no, that there are still 14 individual rules in the packet, nine of which are repealers and the remaining ones are to conform with this new rule. Staff recommends the Commission adopt all 14 rules as set out in the yellow pages in their packets. Chair McLaughlin asked if the Commissioner had questions.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to adopt Alternative #5 with the proposed amendment.

Chair McLaughlin opened the topic for public testimony.

Steve Strand, WCCGA, said their association is in full and strong support of this package. They feel it is fair and easily applied in a tough situation. He stated the Association did discuss the latest amendment on the capital expenditure issue and the only concern related to emergency requirements in order to maintain continued operation. He asked if an executive committee could authorize an emergency purchase in lieu of an executive board? Lastly,

the Association felt a \$10,000 value would more adequately cover more emergency nature possibilities. **Chair McLaughlin** asked if a larger number, with a caveat that the expense had to be reported to the governing board at the first meeting would satisfy the intent. Mr. Strand responded that the Commission is setting a floor, however, the sponsoring agencies have much higher expectations than the floor. The controls for capital expenditures are much tighter than this would present, so this is just an issue of how fast the licensee can comply with the rule and get the required equipment to continue operation. Mr. Strand felt Chair McLaughlin's suggestion would be acceptable.

Commissioner Forrest wasn't sure we should attempt to make any more changes. **Mr. Strand** emphasized that the dollar figure issue, especially when adding a caveat that it be reported in a timely fashion, would solve and make the dollar figure almost moot in that respect because in all the licensees structures, reports and capital expenditure are very tight and much lower. It is just be a matter of whether the governing board would have to approve the expenditure prior to expending the funds.

Commissioner Orr supported the \$6,000 figure, he couldn't support \$10,000 because it provides too much latitude to make decisions given the fact that we are talking about people who are having financial struggles. **Mr. Berg**, Deputy Director, noted that he didn't read this rule as requiring the approval be in advance. He read this rule as the approval must be specific to the expenditure which says to him – the emergency expenditure could be made, but the governing board must specifically approve it. It does not say in advance. **Mr. Fleisher** agreed.

Director Bishop said the intent is to make sure that the boards are involved. They have a tendency to delegate the day-to-day business. He believed there was a lot of leeway in the rule. This language was designed to close a loophole from the perspective of having governing boards actively involved in any capital expenditure. **Mr. Strand** said that the Association's interpretation was prior approval was required, if the interpretation is simply approval and notification, then his Association would have no objection to any dollar amount.

Nick Peck, Silver Buckle Rodeo Club, believed that the devil is in the details, and that the minute one puts a set sum of money in a rule, it can be looked at both ways. He proposed wording that he believed would address everybody's issues: "all capital expenditures for the Bingo operation that are subject to depreciation or amortization shall be specifically approved or ratified by the governing board either is as part of the formal process or at a regular or special meeting." That would address the issues and still allows the flexibility to deal with emergencies. **Director Bishop** said the staff would have no objection to this amendment. He would note that another rule (that he is not interested in offering for change), requires that all expenditures above \$2,000 must be capitalized. Director Bishop suggested that Mr. Peck's proposal would in effect lower the limit.

Mr. Fleisher asked to clarify the motion and asked if the motion was for all the rules in the package or just Alternative #5 – he reminded the Commissioners are 13 other rules in the package, and that they might want to fold all the rules in one motion. **Commissioner Ludwig** said that with the consent of the second, he would ask to amend the motion to adopt the entire Bingo Net Return rules package with Alternative #5. **Chair McLaughlin** added and the proposed amendment. **Commissioner Orr** added and the white page. **Commissioner Forrest** agreed. Mr. Fleisher noted that staff also requests that the motion include an April first effective date so the rule transition process is smooth. **Commissioner's Ludwig and Forrest** concurred.

Commissioner Ludwig amended his motion, which was seconded by **Commissioner Forrest** to adopt the entire Bingo Net Return rules package with Alternative #5 with the proposed amendment on the white page, to be effective April 1, 2001. *Vote taken; motion carried with four aye votes.*

Commissioner Forrest expressed his appreciation to the staff and to the industry for cooperating for the many requested changes. He believed this has been brought about because there has been an enormous change in the whole climate of gambling since Bingo was a rare privilege when first bestowed upon the charities and nonprofits. He hoped these rules would simplify the process. He emphasized there are floors below which licensees won't be able operate at all. Hopefully, if the electronic machines are approved, the floors will no longer be very significant. It's been a long struggle and **Commissioner Forrest** acknowledged that everybody made enormous effort and he extended his appreciation. He believed the end product is something that's livable and won't have to be tinkered with every three months if revenues continue to drop. **Commissioner Ludwig** echoed Commissioner Forrest's comments and he thanked Commissioner Forrest for heading the Commission in the direction. Commissioner

Ludwig thanked staff for their commendable effort. **Chair McLaughlin** also thanked her fellow commissioners and staff, and acknowledged the fact that the industry brought a lot of things to the table. She extended sincere appreciation for the cooperative rule-making process.

4. New Marketing Schemes for Pull-Tabs:

WAC 230-30-033; WAC 230-30-034; WAC 230-30-036

Sherri Winslow reported that these rules were developed in conjunction with the Net Return Task Force and there have been no changes since the last Commissioner meeting.

WAC 230-30-033 Event pull-tab rule. This rule is subsection 4(a) and these pull-tabs are only allowed for charities and nonprofits. The game is operated with an event round which is a second element of chance-type game where the prizes are determined based on the pull-tabs which match a specific number in the Bingo game. This rule is broken into three sections, which includes the definitions and operating restrictions along with the manufacturing restrictions.

WAC 230-30-034 Seal card rule. This rule is also structured with three sections, which includes the definitions and operating restrictions along with the manufacturing restrictions. The seal card game includes a predetermined number of pull-tabs which allow a player a chance to advance to the seal card round. The seal card participants compete amongst one another for the final game prize which is a seal card prize.

WAC 230-30-036 Strip pull-tab rule. This rule basically authorizes strips of pull-tabs to be played with a single flare with various prize schemes. There were control concerns over the manufacture of these games which were discussed at length with both the manufacturers and operators. Many of those control issues would need to be corrected before they could be played within the state. The Washington Civic and Charitable Gaming Association along with the rule originator agreed to pull back the request for the strip ticket games. They felt that the market for the games wouldn't be strong enough due to the control concerns and the costs associated with the ticket. Staff asks that the Commission vote to remove this particular WAC rule from consideration .

Staff recommends that the Commission adopts the Event pull-tab rule which is subsection 4(a), the Seal card pull-tab rule, subsection 4(b) and remove the Strip ticket rule subsection 4(c) from future consideration. **Chair McLaughlin** called for questions and there were none.

Commissioner Ludwig made a motion seconded by Commissioner Orr to withdraw proposed rule 4(c), amending WAC 230-30-036 for the reasons stated by Ms. Winslow.

Chair McLaughlin called for public testimony. There was none and the public hearing was closed. *Vote taken: motion carried with four aye votes.*

Commissioner Ludwig made a motion seconded by Commissioner Forrest to approve proposed rules 4(a) and 4(b) WAC 230-30-033 and WAC 230-30-034.

Chair McLaughlin called for public testimony. There was none and the public hearing was closed and there was no further discussion. **Ms. Patjens** pointed out that staff has asked that the effective date be 31 days after filing, which will allow the new market opportunities to be used as soon as possible.

Commissioner Ludwig and Commissioner Orr agreed to amend the motion to establish the effective date 31 days after filing as recommended. **Chair McLaughlin** opened the change up for public testimony. No one came forward and the public hearing was closed. *Vote taken: the motion carried with four aye votes.*

5. Licensing Fees:

WAC 230-04-202; WAC 230-04-203; WAC 230-04-204

Amy Patjens advised this rule goes with the emergency rule passed in December to readopt the fees that were implemented as of December 31, 1999. Staff made this request because of I-722, which was the initiative to make

any tax increases that became effective between July 2 and December 31, 1999 invalid. Taxes were defined to include license fees. Since that initiative passed, there has been a legal challenge filed and staff felt that this put a cloud of uncertainty as to what the fees were to be. Because the emergency rules are only effective for 120 days, staff asks that this whole rules package be filed, otherwise the emergency filing will expire. This would reaffirm the fees on a permanent basis. Staff recommends final action. Staff asks that these rules be effective 31 days after filing. **Chair McLaughlin** asked if they can approve these as a package. **Ms. Patjens** said they could.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to adopt Item 5 A, B, and C as stated by staff, to file WAC 230-04-202, WAC 230-04-203, and WAC 230-04-204 to be effective 31 days after filing.

Chair McLaughlin opened the topic for public testimony. No one came forward and the public hearing was closed.

Commissioner Forrest asked if the Commission had to make refunds would it be big money. **Director Bishop** indicated that computations suggest it could be in the area of \$800,000 to \$1 million dollars. *Vote taken; motion carried with four aye votes.*

6. **Tracking Card Room Employees:**
WAC 230-04-140; WAC 230-04-142

Amy Patjens reported these two rules deal with the process for when a card room employee begins working, transfers to another location, or is no longer working.

Item 6(a) decreases the time from 15 days down to 10 days that a card room has to wait before they can begin to employ someone as a card room employee. This was previously 20 days, and the agency has been able to make a lot of improvements by automating our systems.

Item 6(b) simplifies the process for when a transferring is occurring. Right now, both the employee and the employer have to notify the agency. Under the proposed rule, only the employer will have to notify the agency. There will be a form that the employee will also sign so the agency will have both parties' consent. Staff plans to implement this with a faxing system that will interface with the agency's licensing system. This will allow the agency to have records updated very quickly and staff are very excited to be able to take advantage of technology to do things more quickly and efficiently. The notice must be made on the first day that the person works and has to reach the Commission within seven business days. At the last Commission meeting, Commissioner Ludwig had suggested that the staff should spell out the acronym CRE, which stands for "card room employee" and that, has been done. Staff recommends final action and that the rule becomes effective 31 days after filing.

Chair McLaughlin asked for clarification on licensure process. **Derry Fries**, Assistant Director, explained it was kind of like a right to work. Card room employees are allowed to work after a 10-day period after some preliminary investigation of their preliminary application has been completed. **Commissioner Orr** verified that it meant that the licensee doesn't necessarily get the license, but they apply and wait 10 days. If no problems arise on the investigation, they have the ability to go to work contingent on their getting their license. **Mr. Fries** affirmed.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to adopt the proposed rules WAC 230-04-140 and WAC 230-04-142 under 6(a) and (b) as proposed to be effective 31 days after filing.

Chair McLaughlin opened the meeting for public comment. There was none so the public hearing was closed and there was no further discussion. *Vote taken; motion passed with four aye votes.*

RULE UP FOR DISCUSSION

7. **Electronic Gambling Equipment Used in Promotional Contests of Chance:**
WAC 230-46-080:

Amy Patjens reported this rule was filed after the last Commission meeting. During the last legislative session, a

bill passed that rewrote the promotional contest of chance law. The law states that equipment or devices that are made for use in a gambling activity are prohibited from use in a promotional contests unless approved by the Commission. Tab Wizard, a pull-tab consulting business, requested approval to use a gambling device in conjunction with a promotional contest of chance. The device would have been linked between several businesses, not just pull-tab operators. These promotional contests of chance apply to all businesses, not just the ones the Commission regulates. The device did not have handles but had other graphics that made it look a lot like a slot machine. Staff was not comfortable with the proposal and requested this rule be passed so they could set forth some requirements on what these devices could look like. The goal would be that we would have these guidelines and these approvals made by the director versus their having to come before the Commission. The current requirement is that there would be no cost to enter, no video terminal spinning reel mechanisms or electronic facsimiles. At last month's meeting staff mentioned they were going to meet with Julie Porter, from Washington Gaming Consultants, who worked very diligently on this law rewrite last year, and Mr. Zaborac of Tab Wizard. Staff has met with them and staff anticipates that next month the rule with the changes will be presented to the Commission. Staff recommends this be up for further discussion and final action next month.

Commissioner Forrest asked what issue we are trying to resolve at this point. **Mr. Fleisher** said it was more a number of little issues rather than just one big issue. The draft was submitted to get discussion going and was written very broadly. Staff realizes that it says no video display terminals, period, which would mean that any kind of graphics would be out. Virtually any electronic-type of game to play a promotional contest of chance is going to have a video screen on it and this was an absolute prohibition. Staff is trying to work out the details. Mr. Fleisher explained the other problem is that the law talks about gambling devices or devices made for the use of gambling activities. As simple as that sounds, what is actually a device made for gambling and what is a device made for other purposes that's used for a promotional contest raises some questions. Commissioner Forrest verified there's no big policy issue. Mr. Fleisher said he didn't think it was a big policy issue. Staff's goal here was to set forth some parameters and guidelines so that most of the devices could be approved by the director subject to the guidelines established by the Commission.

Chair McLaughlin asked for an example of where this would be used. **Mr. Fleisher** responded that any business can do a promotional contest of chance and, of course, they occur all the time. **Mr. Berg** explained that one can go into a business, they give you a ticket – everybody can get one – you can get it by having it mailed to you or you can just get it. You go up to a machine and you stick the ticket into the machine and something happens. Mr. Fleisher noted that the most likely places would be restaurants, bars, taverns and those kinds of places. Chair McLaughlin asked if the agency planned to regulate these activities. Mr. Fleisher said staff hoped not. The Commission doesn't regulate them, but staff constantly gets phone calls about whether this machine fits within this promotional contest guidelines. Staff is working on language to bring forward at next meeting. According to the Administrative Procedures Act, it could be finally adopted next month. Mr. Fleisher anticipated they would see new language on this rule next month and may not be requesting final action next month so the Commission and the public have more time to think about the new draft.

Chair McLaughlin asked if anyone in the audience would like to speak to this. No one came forward and the public testimony was closed.

8. Other Business/General Discussion/ Comments from the Public

Chair McLaughlin called for any other comments or business items from the public.

George Teeney, New Phoenix Last Frontier, thanked the Commission for something brought to their attention yesterday by staff. He indicated the Commission may or has decided to delete the internal control audit process that licensees have gone through over the last couple of years. Staff saw this was something that was already being done by agents who come onto their sites to examine the internal controls. It was almost redundant in order for them to have a CPA and spend \$8 or \$10,000 to do the exact same thing that staff was doing already. Because staff saw this as doubling up on the same thing, he believed they were going to remove that demand. Mr. Teeney wanted to thank the Commission because it saves the \$8-\$10,000, and he appreciated the fact that staff detected that there was a situation that was just a waste of time and money. **Chair McLaughlin** informed him that the Commission had not yet made that decision.

9. **Adjournment:**

With no further business, a motion for adjournment prevailed at 10:45 a.m.

Minutes submitted to the Commission for approval by:

Shirley A. Corbett
Executive Assistant